

REMARKS

Favorable consideration of this Application as presently amended and in light of the following discussion is respectfully requested.

In the last response the applicant submitted new claims 21 and 22. It appears that the Examiner did not examine these claims. The applicant has corrected an obvious typographical error with respect to the word "proton" in claim 21. In addition, support for the polyazole film can be found in claim 1.

By way of summary, the Official Action presents the following issues: Claims 1-20 stand rejected under 35 U.S.C. § 103 (a) as allegedly being unpatentable over Muller et al. (U.S. Patent Publication No. 2004/0186189, hereinafter Muller US '189). The applicant respectfully traverses this rejection.

REJECTION UNDER 35 U.S.C. § 103

The outstanding Official Action has rejected claims 1-20 under 35 U.S.C. § 103 (a) allegedly being unpatentable over Muller. The application contains one independent claim (claim 21).

Muller US '189 is not a proper reference to reject the claims. Muller US '189 was a 371 application filed from a PCT application PCT/EP02/07734 filed July 11, 2002. However, the PCT was published in German and not in English (see WO 03/007411 copy enclosed). Therefore, Muller US '189 is not entitled to the PCT date as the 35 U.S.C. 102 (e) date but only entitled to the date the application was filed in the U.S. which was December 29, 2003 (U.S. filing date).

The applicant believes that they are entitled to their PCT filing date which would antedate this reference (July 25, 2003). Therefore, these rejections should be withdrawn since Muller US '189 is not prior art.

The proper Muller reference would have been the published PCT application (WO 03/007411) instead of the published U.S. application. The published PCT has a publication date of January 23, 2003. The applicant has informed the undersigned that the applicant should receive the certified English translation of their priority document by the end of the month. The applicant believes that they would be entitled to an effective filing date of July 27, 2002 which would antedate WO 03/007411. The undersigned will submit the translation shortly after he receives it.

Claim 21 requires comprises passing a polyazole film at least twice through a trough filled with a liquid, with the film being unrolled from a spool and rolled up on a further spool and the direction of travel of the film is changed during the treatment by altering the direction of rotation of the spools and wherein the liquid comprises an acid to give the film the ability to conduct protons.

The applicant does not believe that the other references cited by the Examiner disclose or teach independent claim 21. For the above reasons, this rejection should be withdrawn.

CONCLUSION

Consequently, in view of the foregoing amendment and remarks, it is respectfully submitted that the present Application, including claims 2-22, is patently distinguished over the prior art, in condition for allowance, and such action is respectfully requested at an early date.

A one month extension fee has been paid. Applicant believes no additional fee is due with this request. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 12834-00004-US from which the undersigned is authorized to draw.

Respectfully submitted,

CONNOLLY, BOVE,
LODGE & HUTZ, L.L.P.

A handwritten signature in black ink, appearing to read "Ashley I. Pezzner". The signature is fluid and cursive, with the first name "Ashley" and last name "Pezzn" being clearly legible, followed by a stylized "ner".

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